

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Respondent,

Case No. 09-cr-20236  
HON. GERSHWIN A. DRAIN

vs.

QUENTON WHITSELL SR.,

Petitioner.

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**ORDER DENYING A CERTIFICATE OF APPEALABILITY**

On April 23, 2015, this Court denied Petitioner's Motion to Vacate Sentence under 28 U.S.C. § 2255. Because the Court finds that Defendant has not shown that his conviction violated his constitutional rights, the Court declines to issue a certificate of appealability in this case.

Federal Rule of Appellate Procedure 22 provides that an appeal may not proceed unless a certificate of appealability is issued under 28 U.S.C. § 2253. Rule 11 of the Rules Governing Section 2225 Proceedings, which was amended as of December 1, 2009, requires that a district court issue or deny a certificate of

appealability when it enters a final order. A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir.1997). To receive a certificate of appealability, “a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

Here, the Court finds that Petitioner has not made a substantial showing of the denial of his Sixth Amendment right to the effective assistance of counsel. Reasonable jurists could not debate this Court’s conclusion that Petitioner was not constructively denied the effective assistance of counsel during a critical stage of his criminal proceedings. Nor could reasonable jurists debate this Court’s conclusion that trial counsel did not fail in their duty to subject the prosecution to meaningful adversarial testing.

The Court therefore DENIES a Certificate of Appealability.

SO ORDERED.

Dated: June 18, 2015

/s/Gershwin A Drain  
GERSHWIN A. DRAIN  
United States District Judge